

OLL 85-2838  
30 September 1985

MEMORANDUM FOR: See Distribution

FROM:

Chief, Legislation Division  
Office of Legislative Liaison

STAT

SUBJECT: Senate Passage of Fiscal Year 1986  
Intelligence Authorization Bill

1. Late Thursday evening, the Senate passed S. 1271, the FY 1986 Intelligence Authorization Bill. During the attached floor consideration of the bill, the Senate affirmed the decision of the Governmental Operations Committee to drop the Executive Schedule increase for the DCI and DDCI and accepted an amendment from the Armed Services Committee which provides access by the Department of Defense, Central Intelligence Agency and Office of Personnel Management to state and local criminal history records for the purpose of conducting a security background investigation. In addition, the provisions on diplomatic reciprocity and travel limitations of individuals serving in United Nations were dropped from the bill since these provisions already had been enacted as part of other legislation.

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3. In another floor amendment, funds available to the FBI for counterterrorism activities were increased by approximately \$20 million. In addition, existing provisions providing increased retirement credits for CIA employees serving in unhealthful areas, and expanding the DoD's use of proceeds from counterintelligence operations were left intact and approved as part of the bill.

4. During Senate floor consideration of S. 1271, Chairman Durenberger and Vice Chairman Leahy also addressed the subject of Agency funded assistance to the Nicaraguan resistance. Senator Durenberger makes clear in this exchange with Senator Leahy that while the Committee has authorized \$28 million to be placed in the Reserve for Contingencies for assistance to the Nicaraguan Resistance, that subsequent Congressional action prohibiting CIA administration of humanitarian aid funds has, in effect, overtaken the SSCI's earlier action and precludes any use of Agency funds inconsistent with the restrictions contained in the 1985 Supplemental Authorization Act. Chairman Durenberger's assurances concerning the use of Agency funds in this regard were considered necessary to prevent a floor amendment from being offered by liberal Democratic Senators that would have established a mandatory cap on assistance to the Nicaraguan resistance.

5. Following Senate approval of the bill, an agreement was reached on the conferees who will represent the Senate in the upcoming Senate/House Conference on the Authorization bill. The conferees for the Senate will be: Senators Durenberger, Cohen, Hatch, Murkowski, Hecht, McConnell, Leahy, Bentsen, Nunn, Boren and Bradley.

6. Since the House passed their version of the authorization bill (H.R. 2419) in July, we expect the conference to take place shortly and are presently preparing a letter for the DCI's signature to the conferees that will represent the Agency's position on various aspects of both the House and Senate bills.




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Attachment as stated

**Distribution:**

Original - LEG:Subject: (s) Intelligence Authorization  
Miscellaneous Personnel  
Immigration  
Stamp Bill

- 1 - 
- 1 - C/Liaison/OLL
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S 12252

## CONGRESSIONAL RECORD - SENATE

September 26, 1985

document specified in section 1 of this resolution for the use of the Committee on Rules and Administration.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## PURCHASE OF CALENDARS

The resolution (S. Res. 232) relating to the purchase of calendars, was considered, and agreed to, as follows:

## S. Res. 232

*Resolved* That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed \$67,986 for the purchase of one hundred and three thousand calendars. The calendars shall be distributed as prescribed by the committee.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AUTHORIZING THE PRINTING OF A REPORT

The resolution (S. Res. 181) authorizing the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program, Sixth Annual Report to Congress," as a Senate document, was considered, and agreed to, as follows:

## S. Res. 181

*Resolved* That the annual report of the Secretary of Transportation to the Congress of the United States in compliance with section 144(d) of title 23, United States Code entitled, "Highway Bridge Replacement and Rehabilitation Program, Sixth Annual Report to Congress," be printed as a Senate document.

Sec. 2. There shall be printed three hundred additional copies for the use of the Committee on Environment and Public Works.

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## TRANSFER OF CERTAIN AUTHORITY TO THE STATES OF MAINE AND NEW HAMPSHIRE

The bill (S. 1701) to authorize a partial transfer of the authority of the Maine-New Hampshire Interstate Bridge Authority to the States of Maine and New Hampshire, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

## S. 1701

*Be it enacted by the Senate and House of Representatives of the United States of Amer-*

*ica, Congress assembled:* That the Act approved July 26, 1937 (50 Stat. 535) is amended by striking out in the first paragraph thereof, "and approaches thereto" and by inserting at the end thereof "The States of Maine and New Hampshire are authorized to assume all construction, maintenance, and operational authority over the approach roads and grade separation structures in their respective areas. As provided in Maine Private and Special Law, Chapter 38, 1985, and New Hampshire Statutes, Chapter 415, 1985, the respective States shall require the Authority to provide Authority funds for capital improvements."

Mr. DOLE. I move to reconsider the vote by which the measure was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## STAR PRINT OF REPORT NO. 99-105

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Report No. 99-105 be star printed to reflect the following changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## STAR PRINT OF REPORT NO. 99-135

Mr. DOLE. Mr. President, I ask unanimous consent that Senate Report No. 99-135 be star printed to reflect the following changes which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TITLE AMENDMENT TO H.R. 2005

Mr. DOLE. Mr. President, I ask unanimous consent that the title of H.R. 2005 be amended so as to read:

A bill to extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the following nominations on the Executive Calendar.

Mr. BYRD. Mr. President, I am not prepared to do that yet.

Mr. DOLE. Mr. President, as I understand it, the managers handling the intelligence authorization bill will not require a rollcall vote. Is that correct?

Mr. LEAHY. My understanding on this side, Mr. President, is that there will not be a request for a rollcall. There will be a short colloquy that the chairman of the committee and I shall have regarding Contra aid. That will obviate the necessity of an amendment and a rollcall. I know of no roll-

calls that are going to be requested on this side of the aisle.

Mr. DURENBERGER. Mr. President, as far as the Chair is concerned there is no reason for a rollcall vote. There will be two minor amendments, one on behalf of Senator BENTSEN, the other on behalf of Senator SIMPSON, neither of which requires a rollcall vote. No rollcall will be necessary or passage.

Mr. DOLE. Mr. President, on that basis, and I think the distinguished minority leader might agree, with that assurance on both sides that no rollcall vote will be requested, I think we can indicate to Members that there will be no rollcall votes tonight. We will not be in session tomorrow. We will come in at approximately 11 a.m. on Monday, and there will be no votes on Monday until 4 p.m.

Mr. BYRD. Mr. President, I think that would be desirable.

Mr. DOLE. I thank the managers of the bill. I yield the floor.

Mr. President, there will be no more rollcall votes this evening and we will not be in session tomorrow.

## INTELLIGENCE AUTHORIZATION, 1986

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Senate now turn to Calendar No. 287, S. 1271, the Intelligence Authorization Act.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1271) to authorize appropriations for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services and on behalf of the Committee on Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

## S. 1271

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:* That this Act may be cited as the "Intelligence Authorization Act for fiscal year 1986."

## TITLE I—INTELLIGENCE ACTIVITIES

## AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Funds are hereby authorized to be appropriated for fiscal year 1986 for the conduct of the intelligence activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.

# CONGRESSIONAL RECORD — SENATE

## TITLE II—INTELLIGENCE COMMUNITY STAFF

S 12253

- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.

### CLASSIFIED SCHEDULE OF AUTHORIZATIONS

Sec. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1986, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Select Committee on Intelligence of the Senate. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and the House of Representatives, and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

### CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

Sec. 103. During fiscal year 1986, funds may not be made available for any intelligence activity unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity, except that in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence activities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence activity for which funds were requested has been denied by Congress.

### PERSONNEL CEILING ADJUSTMENTS

Sec. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1986 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

### AUTHORIZATION OF APPROPRIATIONS FOR DESIGN AND CONSTRUCTION OF A RESEARCH AND ENGINEERING FACILITY AT THE NATIONAL SECURITY AGENCY HEADQUARTERS COMPOUND

Sec. 105. The National Security Agency is authorized to secure the design and construction of a research and engineering facility at its headquarters compound at Ft. Meade, Maryland. A single continuous contract may be employed to facilitate completion of the building authorized by this section, and the Secretary of Defense is authorized to contract for design and construction in advance of appropriations therefor, but the cost of such facility may not exceed \$75,064,000. Of the amounts authorized to be appropriated under section 101(4) of this Act, there is authorized to be appropriated for fiscal year 1986 the sum of \$21,364,000 for design and construction of the facility authorized by this section during fiscal year 1986.

### AUTHORIZATION OF APPROPRIATIONS

Sec. 201. There is authorized to be appropriated for the Intelligence Community \$22,283,000.

### AUTHORIZATION OF PERSONNEL END STRENGTH

Sec. 202. (a) The Intelligence Community Staff is authorized two-hundred-and-thirty-three full-time personnel as of September 30, 1986. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1986, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) During fiscal year 1986, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

### INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

Sec. 203. During fiscal year 1986, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 430a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

### TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

#### AUTHORIZATION OF APPROPRIATIONS

Sec. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1986 the sum of \$101,400,000.

### TITLE IV—GENERAL PROVISIONS

#### AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

Sec. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

#### INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

Sec. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplementary amounts as may be necessary for any increases in such employee compensation or benefits authorized by law.

### TITLE V—FACILITATING NATURALIZATION OF CERTAIN FOREIGN INTELLIGENCE SOURCES

#### IMMIGRATION AND NATIONALITY ACT AMENDMENT

Sec. 501. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

(g)(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine

that a petitioner otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

(2) A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods, and activities.

(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed fifteen. The Director of Central Intelligence shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives each time a determination is made to apply the provisions of this subsection.

### TITLE VI—ADMINISTRATIVE PROVISIONS

#### USE OF PROCEEDS FROM DEFENSE DEPARTMENT COUNTERINTELLIGENCE OPERATIONS

Sec. 601. (a) During fiscal year 1986, the Secretary of Defense may authorize use of proceeds from counterintelligence operations conducted by components of the Military Departments to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code.

(b) As soon as the net proceeds from any such counterintelligence operation are no longer necessary for the conduct of that operation, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

#### RETIREMENT BENEFITS FOR CERTAIN CENTRAL INTELLIGENCE AGENCY EMPLOYEES SERVING IN UNHEALTHFUL AREAS

Sec. 602. Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "(a)" after "Sec. 251," and by adding at the end thereof the following new subsection:

"(b) The Director of Central Intelligence may from time to time establish, in consultation with the Secretary of State, a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthy posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of service of a participant under this Act for the purpose of retirement, fractional months being considered as full months in computing such service. No extra credit for service at such unhealthy posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service."

#### [COMPENSATION OF DIRECTOR AND DEPUTY DIRECTOR OF GENERAL INTELLIGENCE]

Sec. 603. (a) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following: "Director of Central Intelligence."

(b) Section 5313 of title 5, United States Code, is amended by inserting "Deputy" before "Director of Central Intelligence."

(c) Section 5314 of title 5, United States Code, is amended by striking out "Deputy Director of Central Intelligence."

S 12254

## CONGRESSIONAL RECORD — SE

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September 26, 1985

## APPLICATION OF FOREIGN MISSIONS ACT TO INDIVIDUALS ON SECONDMENT TO THE UNITED NATIONS SECRETARIAT

Sec. 1004. (a) The Secretary of State is directed to apply to all individuals who are on secondment from their respective governments to the United Nations Secretariat and all terms, limitations, restrictions, or conditions applicable to individuals pursuant to the Foreign Missions Act of 1952 (22 U.S.C. 4301 et seq.), as may from time to time be applied to members of the consulates, embassies, or missions to the United Nations of those respective governments in the United States, pursuant to the Foreign Missions Act.

## TITLE VII—DIPLOMATIC EQUIVALENCE AND RECIPROCITY

## SHORT TITLE

Sec. 701. This title may be cited as the "Diplomatic Equivalence and Reciprocity Act of 1985".

## POLICY

Sec. 702. (a) It is the policy of the United States that the number of nationals of the Soviet Union admitted to the United States who serve as diplomatic or consular personnel of the Soviet Union in the United States shall not exceed the number of United States nationals admitted to the Soviet Union who serve as diplomatic or consular personnel of the United States in the Soviet Union unless the President determines and so certifies to the Congress that additional admissions of such personnel would be in the best interests of the United States.

(b) The policy contained in subsection (a) shall not apply to dependents or spouses who do not serve as diplomatic or consular personnel.

## REPORTING REQUIREMENT

Sec. 703. Not later than six months after the date of enactment of this title, the Secretary of State and the Attorney General shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet nationals described in section 701 does not exceed the limitation described in such section.

## DEFINITIONS

Sec. 704. For purposes of this title—

(1) the term "diplomatic or consular personnel" means the members of the diplomatic mission or the members of the consular post, as the case may be;

(2) the term "members of the diplomatic mission" is used within the meaning of article 1(b) of the Vienna Convention on Diplomatic Relations, done on April 18, 1961; and

(3) the term "members of the consular post" is used within the meaning of article 1(c) of the Vienna Convention on Consular Relations, done April 24, 1963.

## TITLE VIII—ACCESS TO CRIMINAL HISTORY RECORDS FOR NATIONAL SECURITY PURPOSES

## CONGRESSIONAL FINDINGS AND POLICIES

Sec. 801. The Congress finds—

(1) that under the Constitution, Congress has the responsibility and power to provide for the common defense and security of our Nation;

(2) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency conduct investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in

sensitive national security duties, or acceptance or retention in the armed services;

(3) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency have access to criminal history record information when conducting investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services; and

(4) that the interests of national security have been adversely affected by the reluctance and refusal of some State and local criminal justice agencies to provide criminal history record information to the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency for use in investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services.

Sec. 802. Chapter 31 of title 40, United States Code, is amended by striking out section 520a and substituting the following:

"§ 520a. Criminal history record information for national security purposes

"(a) As used in this chapter:

"(1) The term 'criminal justice agency' includes Federal, State, and local agencies and means: (A) courts, or (B) Government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or Executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

"(2) The term 'criminal history record information' means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correction supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system. The term does not include those records sealed pursuant to a lawful order of a court of law.

"(3) The term 'classified information' means information or material designated pursuant to the provisions of a statute or Executive order as requiring protection against unauthorized disclosure for reasons of national security.

"(4) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of Pacific Islands, and any other territory or possession of the United States.

"(5) The term 'local' and 'locality' means any local government authority or agency or component thereof within a State having jurisdiction over matters at a county, municipal, or other local government level.

"(b)(1) Upon request by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, criminal justice agencies shall make available criminal history record information regarding individuals under investigation by the Department of Defense, the Office of Personnel Management or the Central Intelligence Agency for the purpose of determining eligibility for (A) access to classified information, (B) assignment to or retention in sensitive national security duties, or (C) acceptance or retention in the armed ser-

ices. Fees charged for providing criminal history record information pursuant to this subsection shall not exceed those charged to other criminal justice agencies for such information.

"(2) This subsection shall apply notwithstanding any other provision of law or regulation of any State or of any locality within a State, or any other law of the United States.

"(c) The Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency shall not obtain criminal history record information pursuant to this section unless it has received written consent from the individual under investigation for the release of such information for one or more of the purposes set forth in subsection (b).

"(d) Criminal history record information received under this section shall not be disclosed except for the purposes set forth in subsection (b) or as provided by section 532a of title 5, United States Code."

Sec. 803. The amendments made shall become effective with respect to any inquiry which begins after the date of enactment of this Act conducted by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, for any of the purposes specified in subsection (b) of section 520a of title 40, United States Code, as added by this Act.

Sec. 804. These amendments are made pursuant to the powers vested in Congress as found in section 8 of article I of the United States Constitution.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the amendments of the Committees on Armed Services and Governmental Affairs be agreed to and that the bill as amended be treated as original text for the purpose of future amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments were agreed to.

## AMENDMENT NO. 711

Mr. DURENBERGER. Mr. President, on behalf of the Select Committee on Intelligence, I send to the desk amendments to amend title VI and title VII and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) for himself and Mr. LEAHY, proposes an amendment numbered 711.

Beginning on page 70, line 12, strike out all through page 12, line 24.

Mr. DURENBERGER. Mr. President, it is my privilege to bring to the floor the Intelligence authorization bill which authorizes appropriations for U.S. intelligence activities for fiscal year 1986.

The Select Committee on Intelligence views the annual budget authorization process as one of the principal means of fulfilling its oversight responsibilities because of the insight and leverage that this process provides in influencing the long-term scope and direction of U.S. intelligence efforts.

September 26, 1985

## CONGRESSIONAL RECORD — SENATE

S 12255

The legislation which we are laying before the Senate today authorizes appropriations for those programs and activities of the U.S. Government which serve the intelligence needs of our national policymakers. This includes the Central Intelligence Agency and the National Security Agency, as well as the national intelligence activities of the Departments of Defense, State, Treasury, and Energy, and the Federal Bureau of Investigation. The bill also authorizes appropriations for the intelligence community staff and the Central Intelligence Agency retirement and disability system, and it includes several legislative provisions to enhance the effectiveness of our intelligence agencies.

This year, as in the past, the committee conducted a comprehensive examination of the intelligence budget request. However, for the first time since the committee was formed, the entire budget authorization process was reviewed at the full committee rather than the subcommittee level, which enhanced member participation. Twelve hearings were held which included testimony from the Director and Deputy Director of Central Intelligence, key Defense Department officials, and each of the principal intelligence program managers.

Because of the sensitivity of the matters dealt with in the intelligence authorization bill, I cannot discuss details in open session. These recommendations have, however, been set forth in the classified annex to the committee's report, which has been available to Members under the provisions of Senate Resolution 400 since June.

As is stressed in our reports, the committee believes that strengthening and improving the U.S. intelligence system should remain among our highest national priorities. As we have emphasized in the past, investment in intelligence must grow to ensure that the intelligence community is able to meet the challenges that our nation will face in the late 1980's and beyond. The committee recognizes that increased investment alone will not necessarily lead to the intelligence capabilities required in the years ahead. We must also be more innovative in crafting the Nation's intelligence activities to assure our capability to meet the challenges U.S. policymakers will face as we rapidly approach the 21st century. Our assessment continues to be the same: we see no lessening of the worldwide competition with our principal adversaries while, at the same time, developments in the Third World and global issues will grow in importance to same, we see no lessening of the worldwide competition with our principal adversaries while, at the same time, developments in the Third World and global issues will grow in importance to our national security. We see an ever-increasing threat against us, both as individuals who are potentially targeted for terrorist actions and as a nation which must keep

an ever-constant vigil for those who would threaten our security.

The committee feels that it is becoming increasingly important to structure the intelligence capability so that our Nation is assured of the peace and independence upon which it was founded. In its charter in Senate Resolution 400, the committee was assigned the responsibility to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence to the executive and legislative branches. With these factors in mind, the members of the committee have identified and established a long-range goal that will provide a framework for our future review of intelligence budget proposals.

Our first major goal became the formulation of a requirement for the administration to develop and submit a strategy for national intelligence. The committee agreed early in the year on this goal for a national intelligence strategy. We will examine the fiscal year 1986 budget in terms of the strategy and expect the fiscal year 1987 budget to reflect adherence to the strategy process. While intelligence activities will remain unique, the process employed will not be dissimilar to the posture statement and resource allocation exercise currently utilized by the DOD.

We intend this strategy to be updated annually and to be the basis for understanding what is being done in intelligence and what is proposed.

There has never been a comprehensive strategy for the intelligence community which was based on a disciplined, consistent standard against which one could measure the state of American intelligence. The intelligence target is infinite, and our resources will always be limited. Yet, there is no vehicle which explains our strengths and weaknesses in intelligence in terms other than "more intelligence is better than less" and "faster processing and dissemination is better than slower."

To address these concerns and to achieve our goal, the committee has designed a series of hearings to be held in phases. We have already completed phase I in this hearing process and are now well into phase II. These hearings allow us to look at specific areas to see whether strategic thinking is guiding intelligence decisions. We are calling in experts from the intelligence community—those consumers and decision makers from both the current as well as the prior arena of intelligence.

From these hearings, the committee is developing a set of guidelines for the intelligence community. The Director of Central Intelligence will then develop a national intelligence strategy which will form the backbone of the committee's annual comprehensive examination of the intelligence budget request.

It is because the committee feels so strongly the importance of strengthened national security that it has taken on these added responsibilities of contributing to a more structured and coordinated effort toward our country's intelligence capabilities.

With that in mind, the committee believes that the investments included in the authorization before you now, as well as continued investments are absolutely essential. Intelligence is the Nation's first line of defense; it is also one of our major assets for maintaining world peace. In these perilous times, when miscalculations could have such devastating consequences, it is more important than ever that this Nation maintain a strong intelligence system. I strongly urge my colleagues' support for this important legislation.

Mr. President, I ask unanimous consent that a letter from the Congressional Budget Office, submitted pursuant to section 403 of the Congressional Budget Act of 1974, be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE.

Washington, DC, July 30, 1985.

HON. DAVID DURENBERGER,

Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate on S. 1271, the Intelligence Authorization Act for Fiscal Year 1986, as ordered reported by the Senate Select Committee on Intelligence on June 11, 1985.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,  
Director.

CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

1. Bill number.—S. 1271
2. Bill title.—Intelligence Authorization Act for fiscal year 1986.
3. Bill Status.—As ordered reported by the Senate Select Committee on Intelligence on June 11, 1985.
4. Bill purpose.—To authorize appropriations for the fiscal year 1986 for intelligence activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability Fund, and for other purposes.
5. Estimated cost to the Federal Government:

(b) fiscal year or month, if duration

	1986	1987	1988	1989	1990
Authorization amount	1450				
Estimated outlays	1252	77	64	39	21

\* Does not include costs of Sec. 141 or receipts from Sec. 601, which are classified.

Basic for Estimate.—The authorization amount is stated in the bill. The estimate assumes the fund, year, or appropriation for the law amount of the authorization expenditure of these funds is assumed to follow historical patterns.

Section 101 authorizes funds for the conduct of intelligence activities of several elements of the United States government. The amounts authorized by this section are

classified and are excluded from this cost estimate.

Section 105 authorizes \$21.4 million for the construction of a research and engineering facility at Fort Meade, Maryland for the National Security Agency.

Section 201 authorizes \$22.3 million for the Intelligence Community staff. This amount provides for 233 full-time personnel as of September 30, 1986.

Section 301 provides \$101.4 million for the Central Intelligence Agency Retirement and Disability Fund.

Section 601 authorizes the Secretary of Defense to use the proceeds of counterintelligence operations conducted by components of the Military Departments to offset necessary and reasonable expenses incurred in such operations. Surplus funds are to be deposited in the Treasury as miscellaneous receipts. The amounts involved in this provision are classified and are excluded from this cost estimate.

Section 602 authorizes the Director of Central Intelligence to establish a list of posts deemed unhealthful. Personnel would receive one and one half years credit toward retirement for each year served in such a post. Because the number of posts determined to be unhealthful and the number of personnel affected by such a determination are not known, it is not possible to estimate the budgetary impact of this provision.

The bill includes other provisions that do not have significant budgetary impacts.

6. Estimated cost to state and local governments.—None.

7. Estimate comparison.—None.

8. Previous cost estimate.—None.

9. Estimate prepared by.—Jonathan Tyson (226-2840).

10. Estimate approved by.—James L. Blum, Assistant Director for Budget Analysis.

Mr. LEAHY. Mr. President, I compliment the distinguished chairman of the committee for his remarks. We have done something different this year than I have seen in the slightly over 5 years that I have served on the Intelligence Committee: that is to handle the budget at the full committee rather than the subcommittee level. Having served at both levels, I think there had been distinct advantages to allowing all members of the Intelligence Committee involved in the budget process. With the complement of new members on both sides of the aisle, hallowed members to have a better idea of what is in often a very complex and, of course, very secret budget. I think the only way one fully understands what goes in the intelligence community is by analysis of the budget. As the Intelligence Committee has found, no matter how well-intentioned all of us are, often the only real oversight control we have is through the budget process.

So it was a good experiment to try this year. I think it is one that should be continued for the next fiscal year. I am most pleased with the committees activism in the area of terrorism. It is one that I have encouraged for years. As recent events have shown us, terrorist activity throughout the world constitutes one of the major, if not the major, nonnuclear threats to the security of the United States and to our interests worldwide as well as to our domestic security.

I believe this legislation takes very affirmative action to address the threat posed by terrorism.

Mr. President, I yield to the distinguished chairman of the committee.

The PRESIDING OFFICER. The question is now on agreeing to the amendment.

The amendment (No. 711) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 713

(Purpose: To require notification of the Judiciary Committees that certain naturalization requirements do not apply to certain aliens because of their extraordinary contribution to United States national security, and for other purposes)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of the Senator from Wyoming (Mr. SIMPSON) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER), for Mr. Simpson, proposes an amendment numbered 713.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, beginning on line 12, strike out "fifteen" and all that follows through "Intelligence" and all that follows through "Intelligence" on line 15 and insert in lieu thereof the following: "Ten. The Director of Central Intelligence shall notify the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary".

Mr. DURENBERGER. Mr. President, the purpose of this amendment very simply is to require notification of the Judiciary Committees that certain naturalization requirements do not apply to certain aliens because of the extraordinary contributions to U.S. national security. It is a very appropriate amendment on behalf of our colleague from Wyoming, who is also chairman of the Immigration and Naturalization Subcommittee of Judiciary. He spotted an oversight on the part of the committee, and I highly recommend its adoption.

Mr. LEAHY. Mr. President, I thoroughly concur with the statement of the Senator from Minnesota and also urge adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 713) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 714

(Purpose: To provide additional funding and authority for the Federal Bureau of Investigation in order to improve the counter-terrorist capabilities of the Bureau)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of the Senator from Texas (Mr. BENTSEN), for himself, Mr. DURENBERGER, myself, and other Senators listed on the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY), for Mr. BENTSEN, Mr. DURENBERGER, Mr. LEAHY, Mr. COHEN, Mr. BORN, Mr. ROTH, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. ZORINSKY, Mr. SPECTER, Mr. BRADLEY, Mr. LONG, and Mr. GRASSLEY, proposes an amendment numbered 714.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Sec. (a) There are authorized to be appropriated for fiscal year 1986, \$59,539,000 for the Federal Bureau of Investigation to carry out the counterterrorism activities.

(b) Notwithstanding any other provision of law, the Federal Bureau of Investigation may purchase for fiscal year 1986, an additional 40 vehicles to be used in counterterrorist activities.

(c) Notwithstanding any other provision of law, the Attorney General may make payments in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism.

Mr. BENTSEN. Mr. President, it has been 3 months now since the hijacking of TWA Flight 847 and the execution of Navy diver Robert Stethem by Middle Eastern terrorists. As the circumstances surrounding this tragic event lose their sharp edge in our collective memory, it would be all too easy for us to lapse into complacency and to ignore the growing potential for terrorist activities here in the United States.

Ignoring the reality of terrorism, however, would be exceedingly shortsighted. We are fortunate that terrorist activity in this country has not risen to the heights that it reaches routinely elsewhere in the world, but we cannot assume that it will remain at a reduced level. Indeed, on a worldwide basis the number of terrorist incidents is increasing steadily. And for the past few years over 40 percent of these incidents have been directed against the U.S. Government or U.S. citizens or their property.

Nor are international terrorists the only threat we face. This past week in

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Seattle, 11 members of a neo-Nazi group called "The Order" went on trial for committing 67 crimes designed to finance the overthrow of the U.S. Government and establish a white supremacist society. And barely 3 weeks ago the FBI arrested 13 members of the Puerto Rican terrorist organization "Los Macheteros," the group that was apparently responsible for the killing of two sailors in an attack on a United States Navy bus in Puerto Rico.

The actual number of terrorist incidents in the United States has decreased over the past few years, but the number of incidents the FBI has prevented has increased significantly. Furthermore, according to FBI statistics, there were no terrorist actions in the United States in 1983 attributable to Middle Eastern groups, and only one such incident in 1984. I am not at all confident that this trend will continue.

As a case in point, the Reverend Ben Weir, the Presbyterian minister who was held captive by Moslem extremists in Lebanon for 16 months, was recently released. We were all delighted to have the Reverend Weir back with us, safe and unharmed. But he brought with him his captors' threats of more kidnappings and more executions of Americans.

Given what we know about how Libya's Colonel Qadhafi and Iran's Ayatollah Khomeini feel about us, and given the number of pro-Qadhafi Libyans and pro-Khomeini Iranians residing here in the United States, I do not believe that this is the time to relax and let down our guard. Those concrete barricades that block the entrances onto the Capitol grounds are not there to enhance the beauty of the place.

On the contrary, the very openness of our society makes us vulnerable to terrorist attacks, particularly attacks directed at Government offices, communications centers, transportation hubs, or power grids.

Our first line of defense against domestic terrorism is the Federal Bureau of Investigation, and the FBI has been doing a good job. Despite the increasing threat of terrorism, though, the FBI budget in this area has not even been enough to keep up with inflation.

For fiscal year 1985 the FBI's counter-terrorism budget was just under \$40 million. For fiscal year 1986, OMB froze the counter-terrorism budget at that same level and rejected a request for an \$11 million supplemental appropriation for fiscal year 1985. Subsequently, the FBI has identified additional needs in this area. After talking with them and working over the figures very carefully, the total requirement for the FBI in this area for fiscal year 1986 has been established at \$59.5 million. This represents an increase of about \$20 million over both the actual budget for fiscal year 1985 and the proposed budget for fiscal year 1986, and it is money which

I believe would be well spent to help protect the people of the United States against the threat of terrorism in this country.

Now, what will this additional funding provide in counter-terrorist capability?

First, it will allow the FBI to hire 75 more agents and 45 support staff for counter-terrorism task forces in seven major cities. It will allow 11 more agents for the hostage rescue team, 40 additional positions in support of the Terrorist Research and Analytical Center, and 20 more analysts to support counter-terrorist operations. It will also provide support and equipment for a secure teleconferencing capability for hostage-counter-terrorist coordination, will provide additional automobiles, equipment, training, and weapons for counter-terrorism, and will allow the FBI to reimburse local law enforcement agencies for their overtime assistance to the FBI in this area. The details of some of this funding are classified, and it is the intention of this amendment that appropriate language be included in the classified annex to the committee report on this authorization, explaining how certain of these funds will be expended.

Mr. President, the total reflected in this amendment will be money well spent when compared with the potential cost of just one terrorist attack. I believe this amount is reasonable and is a wise investment to help protect the citizens of this country against the growing danger of terrorist activities. I urge your support of this amendment.

Mr. LEAHY. Mr. President, the purpose of the amendment is to increase the assistance needed by the FBI in their counterterrorist activity. I believe the increase is vitally needed. From my dual role as a member of the Intelligence Committee and the Judiciary Committee, I can state that during the past 4 years the FBI has significantly improved its counterterrorist activities. I believe this amendment will further enhance the FBI's late my distinguished colleague from Texas, Senator BENTSEN on his fine work.

Mr. DURENBERGER. Mr. President, I concur in the judgment of my colleague, the ranking member of the Intelligence Committee, and that of the Senator from Texas who proposed the amendment which we have joined in cosponsoring. I, too, urge its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 714) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I ask for third reading. Mr. LEAHY. Mr. President, will the Senator withhold just for a moment?

Mr. DURENBERGER. Yes, I will. Mr. LEAHY. A question arose earlier this evening, Mr. President, as we were preparing to go forward with this bill, by a number of Senators concerned, as a number of us have been, with our policy in Nicaragua. Specifically they were concerned about the funds for humanitarian assistance provided by this bill to the insurgents in Nicaragua. I do not mean to revisit the whole debate we have on the floor of the Senate. We have had a series of votes on it. But the assurance I have given to Senators, if I might say, Mr. President, is that we have passed legislation which allows humanitarian aid to the Contras, to be administered by the only office of Nicaragua Humanitarian Assistance in the Department of State under certain restrictions that have been voted on in the past by both bodies and signed into law by the President in an amount of \$28 million.

I have further assured these Senators that the \$28 million for this aid to be administered through the Department of State is included in this bill in the CIA's contingency fund. I have assured them further that only the funds only can be used for humanitarian assistance.

Furthermore, no other moneys for the CIA or any other agency or Department covered by this bill can be used in excess of that \$28 million. As I said, that \$28 million is to be administered only by the Department of State. I have given that assurance to those Senators who at one point had considered bringing further amendments to this bill.

I ask my good friend from Minnesota, the distinguished chairman of the committee, if the assurances I have outlined are accurate in his understanding.

Mr. DURENBERGER. Mr. President, I say to my colleague from Vermont that if I accurately understand the gist of his characterization, I certainly do agree with it.

As he well knows and many others know, I made a point at the end of 1984 of declaring my personal opposition to continued use of covert activity in Nicaragua. I took a similar position as chairman of the committee since January of this year.

In the committee, we have deliberately steered a course of neutrality on the issue of utilization of the CIA or other intelligence agencies in some of the areas that my colleague talked about.

In effect, what we accomplished as we went through the budget process was to say that whatever the authorization on the floor of the Senate with regard to the appropriation for Nicaragua, that authorization would control any expenditures from the reserve account. Specifically, for our colleague

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this issue is dealt with in a classified supplement through the Intelligence Committee's report, and even more specifically is dealt with on page 82 of the Intelligence Committee's classified supplement.

The committee moved the \$28 million requested for Nicaraguan paramilitary to the reserve, to be spent only for humanitarian assistance to the so-called Nicaraguan democratic resistance, in an amount and in a manner consistent with congressional action on this issue. Because congressional action has proscribed CIA and DOD administration of the humanitarian aid funds—all of it in the separate authorization, as I indicated—the Intelligence Committee's action, in effect, has been overtaken by events.

I say to my colleague and the others, particularly on his side of the aisle, who have expressed a concern about this issue, that he is correct in his characterization of our authority.

Mr. LEAHY. With that assurance, Mr. President—and it is also my understanding—I have been told by the Senators who have a concern about this that they do not intend to bring up another amendment and thus revisit something that has been voted on.

The Senators who raised the point have been on the losing side before, and they realize that the vote would be the same if held again. I think they realize that the Intelligence Committee handled this matter in a straightforward fashion. It is clear we in the committee watch how and where the money is spent; to be certain it is done so in a manner prescribed by the law.

With that assurance, I assure the chairman that there will not be amendments on this side on this matter.

Mr. DURENBERGER. I thank the Senator.

Mr. President, I ask for third reading of S. 1271.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2419, Calendar No. 239, a companion bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2419), to authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DURENBERGER. Mr. President, I move to strike all after the enacting clause of H.R. 2419 and substitute in lieu thereof the text of S. 1271, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2419, as amended) was passed, as follows:

## H.R. 2419

Resolved, That the bill from the House of Representatives (H.R. 2419) entitled "An Act to authorize appropriations for fiscal year 1986 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Intelligence Authorization Act for fiscal year 1986".

## TITLE I—INTELLIGENCE ACTIVITIES

## AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1986 for the conduct of the intelligence activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.

## CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1986, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Select Committee on Intelligence of the Senate. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and the House of Representatives, and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

## CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1986, funds may not be made available for any intelligence activity unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of

Congress of the intent to make such funds available for such activity, except that in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence activities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence activity for which funds were requested has been denied by Congress.

## PERSONNEL CEILING ADJUSTMENTS

SEC. 104. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1986 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

## AUTHORIZATION OF APPROPRIATIONS FOR DESIGN AND CONSTRUCTION OF A RESEARCH AND ENGINEERING FACILITY AT THE NATIONAL SECURITY AGENCY HEADQUARTERS COMPOUND

SEC. 105. The National Security Agency is authorized to secure the design and construction of a research and engineering facility at its headquarters compound at Ft. Meade, Maryland. A single continuous contract may be employed to facilitate completion of the building authorized by this section, and the Secretary of Defense is authorized to contract for design and construction in advance of appropriations therefor, but the cost of such facility may not exceed \$75,064,000. Of the amounts authorized to be appropriated under section 101(4) of this Act, there is authorized to be appropriated for fiscal year 1986 the sum of \$21,364,000 for design and construction of the facility authorized by this section during fiscal year 1986.

## FUNDING AND AUTHORITY FOR FEDERAL BUREAU OF INVESTIGATION TO IMPROVE ITS COUNTERTERRORIST CAPABILITIES

SEC. 106. (a) There are authorized to be appropriated for fiscal year 1986, \$59,539,000 for the Federal Bureau of Investigation to carry out the counterterrorism activities.

(b) Notwithstanding any other provision of law, the Federal Bureau of Investigation may purchase for fiscal year 1986, an additional 40 vehicles to be used in counterterrorist activities.

(c) Notwithstanding any other provision of law, the Attorney General may make payments in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism.

## TITLE II—INTELLIGENCE COMMUNITY STAFF

## AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1986 the sum of \$22,283,000.

## AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two-hundred-and-thirty-three full-time personnel as of September 30, 1986. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff

or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1986, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) During fiscal year 1986, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

#### INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1986, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 430a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

#### TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

##### AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1986 the sum of \$101,400,000.

#### TITLE IV—GENERAL PROVISIONS

##### AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

##### INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for any increases in such employee compensation or benefits authorized by law.

#### TITLE V—FACILITATING NATURALIZATION OF CERTAIN FOREIGN INTELLIGENCE SOURCES

##### IMMIGRATION AND NATIONALITY ACT AMENDMENT

SEC. 501. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

"(g)(1) Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 313 of this Act, and no residence within the jurisdiction of the court shall be required.

"(2) A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner. Proceedings under this subsection shall be conducted in a manner consistent with the pro-

tection of intelligence sources, methods and activities.

"(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed ten. The Director of Central Intelligence shall notify the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives each time a determination is made to apply the provisions of this subsection."

#### TITLE VI—ADMINISTRATIVE PROVISIONS

##### USE OF PROCEEDS FROM DEFENSE DEPARTMENT COUNTERINTELLIGENCE OPERATIONS

SEC. 601. (a) During fiscal year 1986, the Secretary of Defense may authorize use of proceeds from counterintelligence operations conducted by components of the Military Departments to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code.

(b) As soon as the net proceeds from any such counterintelligence operation are no longer necessary for the conduct of that operation, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

##### RETIREMENT BENEFITS FOR CERTAIN CENTRAL INTELLIGENCE AGENCY EMPLOYEES SERVING IN UNHEALTHFUL AREAS

SEC. 602. Section 251 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "(a)" after "SEC. 251," and by adding at the end thereof the following new subsection:

"(b) The Director of Central Intelligence may from time to time establish, in consultation with the Secretary of State, a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of service of a participant under this Act for the purpose of retirement, fractional months being considered as full months in computing such service. No extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service."

#### TITLE VII—ACCESS TO CRIMINAL HISTORY RECORDS FOR NATIONAL SECURITY PURPOSES

##### CONGRESSIONAL FINDINGS AND POLICIES

SEC. 701. The Congress finds—  
 (1) that under the Constitution, Congress has the responsibility and power to provide for the common defense and security of our Nation;

(2) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency conduct investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services;

(3) that the interests of national security require that the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency have access to criminal history record information when conducting investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services; and

(4) that the interests of national security have been adversely affected by the reluctance and refusal of some State and local criminal justice agencies to provide criminal history record information to the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency for use in investigations of individuals for the purpose of determining eligibility for access to classified information, assignment to or retention in sensitive national security duties, or acceptance or retention in the armed services.

SEC. 702. Chapter 31 of title 10, United States Code, is amended by striking out section 520a and substituting the following:

"§ 520a. Criminal history record information for national security purposes

"(a) As used in this chapter:

"(1) The term 'criminal justice agency' includes Federal, State, and local agencies and means: (A) courts, or (B) Government agency or any subunit thereof which performs the administration of criminal justice pursuant to a statute or Executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

"(2) The term 'criminal history record information' means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correction supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system. The term does not include those records sealed pursuant to a lawful order of a court of law.

"(3) The term 'classified information' means information or material designated pursuant to the provisions of a statute or Executive order as requiring protection against unauthorized disclosure for reasons of national security.

"(4) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of Pacific Islands, and any other territory or possession of the United States.

"(5) The term 'local' and 'locality' means any local government authority or agency or component thereof within a State having jurisdiction over matters at a county, municipal, or other local government level.

"(b)(1) Upon request by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, criminal justice agencies shall make available criminal history record information regarding individuals under investigation by the Department of Defense, the Office of Personnel Management or the Central Intelligence Agency for the purpose of determining eligibility for (A) access to classified information, (B) assignment to or retention in sensitive national security duties, or (C) acceptance or retention in the armed services. Fees charged for providing criminal history record information pursuant to this subsection shall not exceed those charged to other criminal justice agencies for such information.

"(2) This subsection shall apply notwithstanding any other provision of law or regulation of any State or of any locality within a State, or any other law of the United States.

"(c) The Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency shall not obtain criminal

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history record information pursuant to this section unless it has received written consent from the individual under investigation for the release of such information for one or more of the purposes set forth in subsection (b).

"(d) Criminal history record information received under this section shall not be disclosed except for the purposes set forth in subsection (b) or as provided by section 552a of title 5, United States Code."

Sec. 703. The amendments made shall become effective with respect to any inquiry which begins after the date of enactment of this Act conducted by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, for any of the purposes specified in subsection (b) of section 520a of title 10, United States Code, as added by this Act.

Sec. 704. These amendments are made pursuant to the powers vested in Congress as found in section 8 of article I of the United States Constitution.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses on H.R. 2419 and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. DURENBERGER, Mr. COHEN, Mr. HATCH, Mr. MURKOWSKI, Mr. HECHT, Mr. MCCONNELL, Mr. LEAHY, Mr. BENTSEN, Mr. NUNN, Mr. BORN, and Mr. BRADLEY conferees on the part of the Senate.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that S. 1271 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I compliment the distinguished chairman of the committee for his expeditious handling of this matter. It has been a pleasure to work with him in putting this bill together.

Also, we have an excellent and non-partisan staff that has helped us.

In carrying out my duties, I especially want to thank Eric Newsom, Dan Finn, and George Tenet. In mentioning those three, I do not mean in any way to preclude others, because we have some of the finest men and women serving on the Intelligence Committee, working with Senators on both sides of the aisle, of any committee on which I have served.

Mr. DURENBERGER. Mr. President, I am grateful to my colleague from Vermont for his comments.

I am particularly grateful to the majority leader and the minority leader for the wisdom they have demonstrated in January in the appointment of nine new members to a committee which is incredibly important to this body.

I compliment in particular the nine of our colleagues who are new to the

Intelligence Committee, for the effort they have put in during the last 8 months in mastering a difficult subject under somewhat difficult conditions.

In addition, the six of us who were holdovers had to adjust to some new realities, in which most of us did quite well. The new staff and the old staff have performed incredibly well under the direction of the new staff director, to whom I am most grateful, Mr. Bernie McMahon, who left the U.S. Navy for much more challenging responsibilities here.

All the members of the majority and minority staff are gifted and have made and will continue to make outstanding contributions to this effort. On my behalf and on behalf of my colleague from Vermont, I am grateful to them for the expeditious way in which this matter was handled, and to our colleagues who may have had some concerns about the content, for permitting us to go ahead with this bill this evening.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MELCHER. Mr. President, reserving the right to object, I wonder if the assistant majority leader can inform me whether I can call up the extension of the dairy program.

Mr. SIMPSON. Mr. President, we have—

The PRESIDING OFFICER. If the Chair may state, the pending business is the quorum call that has yet to be withdrawn.

Is there objection to withdrawal of the quorum?

Mr. MELCHER. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bill and joint resolution:

September 19, 1985:

S.J. Res. 31. Joint Resolution to designate the week of November 24 through November 30, 1985, and the week of November 23 through November 29, 1986, as "National Family Week."

September 25, 1985:

S. 444. An act to amend the Alaska Native Claims Settlement Act.

#### MESSAGES FROM THE HOUSE

At 3:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolution, without amendment:

S. 1617. An Act to amend title 38, United States Code, to provide interim extensions of the authority of the Veterans' Administration to operate a regional office on the Republic of the Philippines, to contract for hospital care and outpatient services in Puerto Rico and the Virgin Islands, and to contract for treatment and rehabilitation services for alcohol and drug dependence and abuse disabilities, and to amend the Emergency Veterans' Job Training Act of 1983 to extend the period for entering into training under such Act; and

S.J. Res. 127. Joint resolution to grant the consent of Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1246. An act to establish a federally declared floodway for the Colorado River below Davis Dam;

H.R. 2453. An act to amend the Older Americans Act of 1965 to increase the amounts authorized to be appropriated for fiscal years 1985, 1986, and 1987 for commodity distribution, and for other purposes; and

H.R. 3166. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

#### ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 3:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 1689. An act to amend various provisions of the Public Health Service Act;

S.J. Res. 127. Joint resolution to grant the consent of Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois; and

H.J. Res. 348. Joint resolution making continuing appropriations for the fiscal year 1986, and for other purposes.